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IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Shuichi WATANABE Conf.: 8589
Appl. No.: 09/451,097 Group: 2613
Filed: November 30, 1999 Examiner: R. Lee
For: IMAGE RETRIEVING APPARATUS PERFORMING
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REPLY TO ELECTION OF SPECIES REQUIREMENT

Technology Center 2600

Honorable Commissioner for Patents
Washington, DC 20231

February 8, 2002

Sir:

In reply to the Election of Species Requirement dated January 9, 2002, the following remarks are respectfully submitted in connection with the above-identified application.

REMARKS

Claims 1-26 are pending in the present application.

The Examiner has required election in the present application by indicating that claims 1 to 26 are directed to various embodiments. However, applicant respectfully submits that claims are definitions of inventions. *Claims are never species.* See MPEP 806.04(e).

Furthermore, applicant respectfully submits that when an Examiner is making an election requirement the action should:

- (a) Identify generic claims or indicate that no generic claims are present.
- (b) **Clearly identify** each of the disclosed species, to which claims are restricted. The species are preferably identified as the species of figures 1, 2, and 3 or species of examples I, II, and III, respectively. In absence of distinct figures or examples to identify the several species, the mechanical means, the particular material, or other distinguishing characteristic of the species should be stated for each

species identified. If the species cannot be conveniently identified, the claims may be grouped in accordance with the species to which they are restricted. See MPEP 809.02(a)

Applicant notes that the Office Action lacks specific identification of the species as required by MPEP 809.02(a). Applicant therefore must assume the species groupings that the Examiner is relying upon for the basis of this election requirement in order to be responsive to this action.

For the purpose of examination of the present application, Applicant elects, with traverse, the First Embodiment, Figures 1-7. The claims readable upon the first embodiment includes claims 1-4 and 15-18.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Carolyn T. Baumgardner (Reg. No.41,345) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

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